



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Conduct Public Hearing to Allow Public Testimony Regarding the Resolution of Intention to Expand the Lodi Tourism Business Improvement District (LTBID) to Include Flag City Hotels within the Business Improvement District, and Consider Introducing Ordinance Expanding the LTBID.

MEETING DATE: January 21, 2009

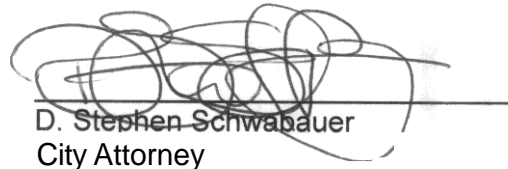
PREPARED BY: City Attorney

RECOMMENDED ACTION: Conduct Public Hearing to Allow Public Testimony Regarding the Resolution of Intention to Expand the Lodi Tourism Business Improvement District (LTBID) to Include Flag City Hotels within the Business Improvement District, and Consider Introducing Ordinance Expanding the LTBID.

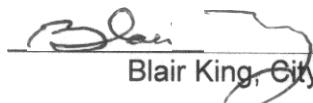
BACKGROUND INFORMATION: Council began the process of considering expansion of the LTBID at its November 19, 2008 meeting by adopting a Resolution of Intention as required by the Streets and Highways Code. The second of the three meetings, a Public Meeting, held on December 17, 2008, pursuant to Government Code §54954.6 was necessary to allow public testimony regarding the expansion of the District before Council can formally resolve to expand the District. Tonight is the third meeting, a public hearing that must be held to actually expand the district. A majority protest at the public hearing would prevent the expansion of the District. The vote is weighted according to the percentage of the overall assessment that the business would pay as set forth in Exhibit A. Assuming a majority protest is not achieved, Council may then consider introducing Ordinance No. 1818, expanding the District.

FUNDING: Not applicable

FISCAL IMPACT: Increased LTBID revenue from the inclusion of Flag City Hotels/Motels in the LTBID


D. Stephen Schwabauer
City Attorney

Attachment
cc: Nancy Beckman, Visit Lodi

APPROVED: 
Blair King, City Manager

ORDINANCE NO. 1818

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING LODI MUNICIPAL CODE TITLE 12, "STREETS,
SIDEWALKS, AND PUBLIC PLACES," BY REPEALING AND
REENACTING CHAPTER 12.07 RELATING TO THE LODI TOURISM
BUSINESS IMPROVEMENT DISTRICT (LTBID)

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Title 12, "Streets, Sidewalks, and Public Places," of the Lodi Municipal Code is hereby amended by repealing and reenacting Chapter 12.07 in its entirety relating to the Lodi Tourism Business Improvement District (LTBID) and shall read as follows:

Chapter 12.07 LODI **AREA** TOURISM BUSINESS IMPROVEMENT DISTRICT

SECTIONS:

12.07.010 Authority
12.07.020 Resolution of Intention
12.07.030 Resolution of Intention, Notice, Hearing, and Protest
12.07.040 Definitions
12.07.050 Established—Name
12.07.060 Description of Boundaries
12.07.070 Levy of Assessment—Use of Proceeds
12.07.080 Annual Review of Assessments
12.07.090 Levy of Assessment—Amount
12.07.100 Levy of Assessment—Use of Revenue—Authority
12.07.110 Assessment—Calculation of Taxes
12.07.120 Records
12.07.130 Levy of Assessment—Collection, Delinquency, and Penalty

12.07.010 Authority.

The proceedings herein are taken pursuant to the authority of the Parking and Business Improvement Area Law of 1989, codified as California Streets and Highways Code Sections 36500 through 35551, inclusive. The hotels within the boundaries of the district established by this Ordinance shall be subject to any amendments of the Parking and Business Improvement Area Law of 1989.

12.07.020 Resolution of Intention.

This chapter is adopted pursuant to the Resolution of Intentions (Resolution No. 2004-191 **and Resolution No. 2008-229**) adopted by the Lodi City Council on September 15, 2004 **and November 19, 2008, respectively**, pursuant to the authority of the Parking and Business Improvement Area Law of 1989.

12.07.030 Resolution of Intention, Notice, Hearing, and Protest.

A. Resolution of Intention No. 2004-191 was published and mailed as provided by law, and a public hearing thereon was held by the City Council on October 6, 2004, at 7:00 p.m. before

the City Council in the Chambers of the Lodi City Council at the Carnegie Forum, 305 West Pine Street, Lodi, California. A protest against the proposed formation of "Lodi Tourism Business Improvement District" has not been made by businesses which will pay fifty percent or more of the proposed assessment. All protests, both written and oral, are overruled and denied and the City Council finds that there is not a majority protest within the meaning of Sections 36524 and 36525 of the California Streets and Highways Code.

B. Resolution of Intention No. 2008-229 was published and mailed as provided by law, and a public hearing thereon was held by the City Council on January 21, 2008, at 7:00 p.m. before the City Council in the Chambers of the Lodi City Council at the Carnegie Forum, 305 West Pine Street, Lodi, California. A protest against the expansion of the "Lodi Area Tourism Business Improvement District" has not been made by businesses which will pay fifty percent or more of the proposed assessment. All protests, both written and oral, are overruled and denied and the City Council finds that there is not a majority protest within the meaning of Sections 36524 and 36525 of the California Streets and Highways Code.

12.07.040 Definitions.

For the purposes of this chapter, the following definitions apply:

- a. "Finance Director" means the director of finance for the city or his/her designated representative.
- b. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, including, but not limited to, any hotel, inn, bed and breakfast, tourist home or house, motel, studio hotel, bachelor hotel, lodging-house, or other similar structure or portion thereof.
- c. "Short Term Room Rental" shall mean occupancies that last less than 30 consecutive calendar days.
- d. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

12.07.050 Established—Name.

There is hereby established a parking and business improvement area, which shall be known as the "Lodi **Area** Tourism Business Improvement District," hereinafter for brevity and convenience sometimes referred to as "LTBID."

12.07.060 Description of Boundaries.

The boundaries of the LTBID shall be the boundaries of the City of Lodi **and County Service Area #31 ("Flag City")**.

12.07.070 Levy of Assessment—Use of proceeds.

The improvements and activities to be provided in the LTBD will be funded by the levy of the assessments. The City Council hereby finds that the hotels within the business and improvement area will be benefited by the improvements and activities funded by the assessments to be levied. The revenue from the levy of assessments within the LTBD shall not be used to provide improvements or activities outside the LTBD or for any purpose other than the purposes specified in the Resolution of Intention. The proceeds from the LTBD assessment, as hereinafter provided, shall be used to administer marketing programs to promote the City of Lodi District as a tourism destination and to fund projects, programs, and activities that benefit hotels within the City of Lodi District.

12.07.080 Annual Review of Assessments.

All of the assessments imposed pursuant to this chapter shall be reviewed by the City Council annually, based upon the annual reports prepared by the advisory board appointed pursuant to this chapter and Sections 36530 and 36533 of the California Streets and Highways Code. The annual report shall include a budget for operations and a detailed identification of the marketing efforts to be undertaken by the LTBD for the ensuing calendar year.

12.07.090 Levy of Assessment—Amount.

The proposed LTBD will include all hotels within the City of Lodi District. The assessment shall be levied on all hotels, existing and future, within the City of Lodi District based upon 3% of the gross Short Term Room Rental revenue. Except where funds are otherwise available, an assessment will be levied annually to pay for the improvements and activities within the area and will be collected quarterly based on 3% of the gross Short Term Room Rental revenues for the previous quarter. New hotels within the boundaries will not be exempt from the levy of assessment pursuant to Section 36531 of the California Streets and Highways Code. Assessments pursuant to the LTBD shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax.

12.07.100 Levy of Assessment—Use of revenue—Authority.

An advisory board shall be appointed by the City Council to make recommendations concerning the operation and extent of the LTBD and the methods and ways the revenue derived from the assessment imposed by this chapter shall be used within the scope of the purposes set forth in Section 12.07.070, and to incur obligations against the funds derived from the assessment only according to policy guidelines the City Council from time to time may establish and direct, and to perform only such other powers and duties as the Council from time to time may determine and direct. The City Council shall annually approve a budget, which shall include a program of activities intended to carry out the purposes set forth in Section 12.07.070, accompanied with an estimate of expenditures.

12.07.110 Assessment – Calculation of Taxes.

The assessment imposed by this Ordinance is levied upon the hotels within the district, and the operator of each hotel shall be solely responsible for paying all assessments when due. Notwithstanding the foregoing, in the event that the operator of a hotel elects to pass on some or all of the assessment to customers of the hotel, the operator of the hotel shall separately identify or itemize the assessment on any document provided to a customer. Assessments levied on the operators of hotels pursuant to this Ordinance and passed on to customers are not part of a hotel's gross receipts or gross revenues for any purpose, including the calculation of sales or use tax, transient occupancy tax, or income pursuant to any lease. However,

assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise taxes.

12.07.120 Records.

It shall be the duty of every operator of a hotel liable for the collection and payment to the applicable city or the county of any assessment imposed by this chapter to keep and preserve for a period of three years all records as may be necessary to determine the amount of such assessment as he may have been liable for the collection of and payment to the applicable city or the county, which records the applicable city or the county shall have the right to inspect at a reasonable time and following twenty-four (24) hour prior written notice.

12.07.130 Levy of Assessment--Collection, Delinquency, and Penalty.

The collection of the assessment imposed by this chapter shall be made on a quarterly basis from hotels within the ~~City of Lodi~~ **District**. The City of Lodi will collect the assessment on the same form as that used for the collection of Transient Occupancy Tax receipts. Each operator shall, on or before the last day of each quarter, make a report to the Finance Director on forms provided by city of the amount of assessment due for that quarter. The report and amount become delinquent twenty days after they are due. The full amount of the assessment calculated shall be remitted to the Finance Director at the time the return is filed. The Finance Director may establish shorter reporting or remitting periods for any operator and may require additional information in any return. Returns and payments are due immediately upon cessation of business for any reason. Each return shall contain a declaration under penalty of perjury, executed by the operator or its authorized agent, that, to the best of the declarant's knowledge, the statements in the return are true, correct, and complete.

Any operator who fails to remit any assessment imposed by this chapter within the time required shall pay a penalty of ten percent of the amount of the assessment in addition to the amount of the assessment. Any operator who fails to remit any delinquent remittance on or before the 15th day of the month following date of the first penalty shall pay a second delinquency penalty of ten percent of the amount of the assessment in addition to the amount of assessment and ten percent penalty first imposed.

If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the assessment shall be added thereto in addition to the penalties stated above.

In addition to the penalties imposed, any operator who fails to remit any assessment imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Every penalty imposed and such interest as accrued under the provisions of this section shall become a part of the assessment required to be paid by this chapter.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care toward persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in full force and effect on January 1, 2005.

Approved this ____ day of _____, 2009

LARRY D. HANSEN
Mayor

Attest:

RANDI JOHL
City Clerk

=====

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1818 was introduced at a regular meeting of the City Council of the City of Lodi held January 21, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2009, by the following vote:

AYES: COUNCIL MEMBERS –
NOES; COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1818 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

LTBID	WEIGHING
HOTEL NAME	VOTE
Microtel	8.08%
Rx5 Hospitality	12.39%
Wine & Roses	19.81%
Del Rancho	0.76%
Holiday Inn	19.47%
Star	0.053%
Budget	0.63%
Comfort	8.47%
Lodi El Rancho	2.58%
Modern Motor	0.0046%
Wine Country In	0.66%
Rancho Grande	0.41%
Travelers	0.058%
Viking	0.49%
Royal Host	5.68%
Imperial	0%
Economy Inn	0.62%
Main Hotel	0.016%
Oasis	0.35%
Hampton Inn	19.42%



*Please immediately confirm receipt
of this fax by calling 333-6702*

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: PUBLIC HEARING TO EXPAND THE LODI TOURISM BUSINESS
IMPROVEMENT DISTRICT (LTBID)

PUBLISH DATE: WEDNESDAY, NOVEMBER 26, 2008

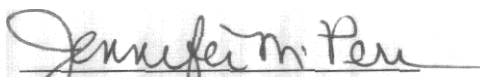
LEGAL AD

TEAR SHEETS WANTED One(1) please

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: MONDAY, NOVEMBER 24, 2008

ORDERED BY: RANDI JOHL
CITY CLERK


JENNIFER M. PERRIN, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS	Faxed to the Sentinel at 369-1084 at _____ (time) on _____ (date) _____ (pages)
	Phoned to confirm receipt of all pages at _____ (time) _____ CF _____ MB _____ JMP (initials)



DECLARATION OF POSTING

PUBLIC HEARING TO EXPAND THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT (LTBID)

On Wednesday, November 26, 2008, in the City of Lodi, San Joaquin County, California, a copy of a Notice of Public Hearing to expand the Lodi Tourism Business Improvement District (LTBID) (attached hereto, marked Exhibit "A") was posted at the following four locations:


Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is **true** and correct.

Executed on November 26, 2008, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK


JENNIFER M. PERRIN, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

NOTICE OF PUBLIC HEARING

RESOLUTION NO. 2008-229

**A RESOLUTION OF THE LODI CITY COUNCIL
DECLARING ITS INTENTION TO EXPAND THE
LODI TOURISM BUSINESS IMPROVEMENT
DISTRICT (LTBID)**

WHEREAS, Visit Lodi, formerly known as Lodi Conference and Visitors Bureau, is interested in expanding the Lodi Tourism Business Improvement District (LTBID) to include hotels within the Service Area of CSA #31 "Flag City"; and

WHEREAS, the County of San Joaquin has consented to the expansion of the LTBID into Flag City; and

WHEREAS, the Parking and Business Improvement Area Law of 1989 Section 36500 et seq. of the Streets and Highways Code authorizes cities to expand parking and business improvement areas for the purpose of promoting tourism; and

WHEREAS, businesses within the LTBID have requested the Lodi City Council to expand such an improvement area.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

Section 1. The recitals set forth herein are true and correct.

Section 2. The City Council declares its intention to expand the LTBID pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. The boundaries of the LTBID shall be expanded to include the service area of County Service Area #31 ("Flag City").

Section 3. The LTBID proposes to administer marketing programs to promote the City of Lodi as a tourism destination and to fund projects, programs, and activities that benefit hotels within the area as expanded.

Section 4. Except where funds are otherwise available, an assessment will be levied annually to pay for all improvements and activities in the area.

Section 5. The proposed LTBID will include all hotels within the City of Lodi and Flag City.

Section 6. The assessment is proposed to be levied on all hotels, existing and future, within the City of Lodi and Flag City based upon 3% of the gross room rental revenue.

Section 7. New hotels within the boundaries will not be exempt from the levy of assessment pursuant to Streets and Highways Code Section 36531. Pursuant to the City of Lodi's transient occupancy tax ordinance, assessments pursuant to the LTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax.

Section 8. The LTBID proposed annual assessment (as expanded) in year one totals approximately \$270,000. The funds raised shall be spent on a Marketing Program, Administration & Personnel, and BID Development / Formation.

Section 9. The City of Lodi will collect the assessments quarterly from hotels within the City. The City of Lodi will collect the assessment on the same form as that used for the collection of transient occupancy tax receipts. The City of Lodi will charge a **5%** collection fee on amounts collected and will remit the net amount to the LTBID within 30 days after collections occur.

Section 10. The time and place for the public meeting to expand the LTBID and the levy of the assessments is set for **December 17, 2008 at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.**

Section 11. The time and place for the public hearing to expand the LTBID and the levy of the assessments is set for January 21, 2009 **at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.**

Section 12. At the public hearing the testimony of all interested persons for or against the expansion of the area will be heard.

Section 13. A protest against the expansion of the LTBID, or any aspect of it, may be made in writing. **To** count in the majority protest against the LTBID expansion, a protest must be in writing. A written protest may be withdrawn from writing at any time before the conclusion of the public hearing. Each written protest shall contain a written description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Lodi or the County of San Joaquin as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. Any written protest as to the regularity or evidence of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. Written protests must be received by the City Clerk of the City of Lodi before the close of the hearing scheduled herein and may be delivered to the City Clerk at City Hall, 221 **W.** Pine Street, Lodi, California, 95240 or mailed to the City Clerk at P.O. Box 3006, Lodi, CA 95241.

All proceedings before the City Council are conducted in English. The City of Lodi does not furnish interpreters, and, if one is needed, it shall be the responsibility of the person needing one.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City ~~Clerk~~/City Council at, or prior to, the public hearing.

Section 14. If, at the conclusion of the public hearing, there are of record, written protests against the expansion by the owners of the businesses within the LTBID that will pay fifty percent (50%) or more of the total assessments of the entire LTBID, no further proceedings to expand the LTBID shall occur. New proceedings to expand the LTBID shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council. If the majority of written protests are only **as** to an improvement or activity proposed, then that type of improvement or activity shall not be included in the LTBID.

Section 15. Further information regarding the proposed LTBID may be obtained from the City Clerk, City of Lodi, 221 West Pine Street, Lodi, California 95240.

Section 16. The City Clerk is instructed to provide notice **of** the public hearing as follows:

- a. Publish this Resolution of Intention in a newspaper of general circulation in the City of Lodi once, at least seven (7) days before the hearing.
- b. Mail complete copy of this Resolution of Intention to each and every business owner proposed to be assessed in the LTBID within seven (7) days of the adoption of this Resolution by the City Council.

Section 17. This Resolution is effective on its adoption.

Dated: November 19, 2008


I hereby certify that Resolution No. 2008-229 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 19, 2008, by the following vote:

AYES: COUNCIL MEMBERS - Hansen, Hitchcock, Johnson, Katzakian,
and Mayor Mounce

NOES: COUNCIL MEMBERS - None

ABSENT: COUNCIL MEMBERS - None

ABSTAIN: COUNCIL MEMBERS - None


RANDI JOHL
City Clerk

2008-229



DECLARATION OF MAILING

PUBLIC HEARING TO EXPAND THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT (LTBID)

On November 25, 2008, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing letter and Public Hearing Notice to expand the Lodi Tourism Business Improvement District (LTBID), attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 25, 2008, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI


JENNIFER M. PERRIN, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

CITY COUNCIL

JOANNE MOUNCE, Mayor
LARRY D. HANSEN,
Mayor Pro Tempore
SUSAN HITCHCOCK
BOB JOHNSON
PHILKATZAKIAN

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702 / FAX (209) 333-6807
www.lodi.gov cityclerk@lodi.gov

BLAIR KING, City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

November 25, 2008

NOTICE OF PUBLIC HEARING

(See attached)

**RE: RESOLUTION OF THE LODI CITY COUNCIL DECLARING ITS
INTENTION TO EXPAND THE LODI TOURISM BUSINESS
IMPROVEMENT DISTRICT**

Enclosed please find Resolution No. 2008-229 of the Lodi City Council declaring its intention to expand the Lodi Tourism Business Improvement District. The City Council has established the following dates to hear this matter:

- **Public Meeting** – December 17, 2008, at 7:00 p.m., or as soon thereafter as the matter may be heard, at the Carnegie Forum, 305 West Pine Street, Lodi, California; and
- **Public Hearing** – January 21, 2009, at 7:00 p.m., or as soon thereafter as the matter may be heard, at the Carnegie Forum, 305 West Pine Street, Lodi, California.

Should you have any questions, please do not hesitate to contact the Lodi City Clerk's Office at (209) 333-6702.

Sincerely,



Randi Johl

City Clerk

RJNMP

Enclosure

NOTICE OF PUBLIC HEARING

RESOLUTION NO. 2008-229

**A RESOLUTION OF THE LODI CITY COUNCIL
DECLARING ITS INTENTION TO EXPAND THE
LODI TOURISM BUSINESS IMPROVEMENT
DISTRICT (LTBID)**

WHEREAS, Visit Lodi, formerly known as Lodi Conference and Visitors Bureau, is interested in expanding the Lodi Tourism Business Improvement District (LTBID) to include hotels within the Service Area of CSA #31 "Flag City"; and

WHEREAS, the County of San Joaquin has consented to the expansion of the LTBID into Flag City; and

WHEREAS, the Parking and Business Improvement Area Law of 1989 Section 36500 et seq. of the Streets and Highways Code authorizes cities to expand parking and business improvement areas for the purpose of promoting tourism; and

WHEREAS, businesses within the LTBID have requested the Lodi City Council to expand such an improvement area.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby resolve, determine, and find **as** follows:

Section 1. The recitals set forth herein are true and correct.

Section 2. The City Council declares its intention to expand the LTBID pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. The boundaries of the LTBID shall be expanded to include the service area of County Service Area #31 ("Flag City").

Section 3. The LTBID proposes to administer marketing programs to promote the City of Lodi as a tourism destination and to fund projects, programs, and activities that benefit hotels within the area as expanded.

Section 4. Except where funds are otherwise available, an assessment will be levied annually to pay for all improvements and activities in the area.

Section 5. The proposed LTBID will include all hotels within the City of Lodi and Flag City.

Section 6. The assessment is proposed to be levied on all hotels, existing and future, within the City of Lodi and Flag City based upon 3% of the gross room rental revenue.

Section 7. New hotels within the boundaries will not be exempt from the levy of assessment pursuant to Streets and Highways **Code** Section 36531. Pursuant to the City of Lodi's transient occupancy tax ordinance, assessments pursuant to the LTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax.

Section 8. The LTBID proposed annual assessment (as expanded) in year one totals approximately \$270,000. The funds raised shall be spent on a Marketing Program, Administration & Personnel, and BID Development/ Formation.

Section 9. The City of Lodi will collect the assessments quarterly from hotels within the City. The City of Lodi will collect the assessment on the same form as that used for the collection of transient occupancy tax receipts. The City of Lodi will charge a **5%** collection fee on amounts collected and will remit the net amount to the LTBID within 30 days after collections occur.

Section 10. The time and place for the public meeting to expand the LTBID and the levy of the assessments is **set for December 17, 2008 at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.**

Section 11. The time and place for the public hearing to expand the LTBID and the levy of the assessments is set for January 21, 2009 **at 7:00 p.m., at the Carnegie Forum, 305 West Pine Street, Lodi, California.**

Section 12. At the public hearing the testimony of all interested persons for or against the expansion of the area will be heard.

Section 13. A protest against the expansion of the LTBID, or any aspect of it, may be made in writing. To count in the majority protest against the LTBID expansion, a protest must be in writing. A written protest may be withdrawn from writing at any time before the conclusion of the public hearing. Each written protest shall contain a written description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Lodi or the County of San Joaquin as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. Any written protest as to the regularity or evidence of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. Written protests must be received by the City Clerk of the City of Lodi before the close of the hearing scheduled herein and may be delivered to the City Clerk at City Hall, 221 W. Pine Street, Lodi, California, 95240 or mailed to the City Clerk at P.O. Box 3006, Lodi, CA 95241.

All proceedings before the City Council are conducted in English. The City of Lodi does not furnish interpreters, and, if one is needed, it shall be the responsibility of the person needing one.

If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk/City Council at, or prior to, the public hearing.

Section 14. If, at the conclusion of the public hearing, there are of record, written protests against the expansion by the owners of the businesses within the LTBD that will pay fifty percent (50%) or more of the total assessments of the entire LTBD, no further proceedings to expand the LTBD shall occur. New proceedings to expand the LTBD shall not be undertaken again for a period of at least one (1) year from the date of the finding of the majority written protest by the City Council. If the majority of written protests are only as to an improvement or activity proposed, then that type of improvement or activity shall not be included in the LTBD.

Section 15. Further information regarding the proposed LTBD may be obtained from the City Clerk, City of Lodi, 221 West Pine Street, Lodi, California 95240.

Section 16. The City Clerk is instructed to provide notice of the public hearing as follows:

- a. Publish this Resolution of Intention in a newspaper of general circulation in the City of Lodi once, at least seven (7) days before the hearing.
- b. Mail complete copy of this Resolution of Intention to each and every business owner proposed to be assessed in the LTBD within seven (7) days of the adoption of this Resolution by the City Council.

Section 17. This Resolution is effective on its adoption.

Dated: November 19, 2008

=====

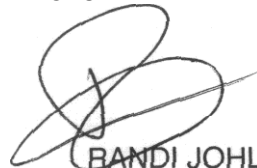
I hereby certify that Resolution No. 2008-229 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 19, 2008, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Katzakian,
and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


BANDI JOHL
City Clerk

2008-229

EXHIBIT B

RESOLUTION OF INTENTION TO EXPAND THE LODI TOURISM BUSINESS IMPROVEMENT DISTRICT (LTBID)

Mailing List

Wine and Roses Country Inn, LLC
2505 W. Turner Road
Lodi, CA 95242

Ashvin Patel
Del Rancho Motel
501 N. Cherokee Lane
Lodi, CA 95240

Holiday Inn Express
P.O. Box 1420
Lodi, CA 95241

Holiday Inn Express
GFLIP III Limited
P.O. Box 1210
Lodi, CA 95241

Patel, Kanu & Jayesh K.
Star Hotel
P.O. Box 263
Lodi, CA 95241

Suresh B. Patel
Budget Inn of Lodi
917 S. Cherokee Lane
Lodi, CA 95240

Margaret Kim
Comfort Inn – Lodi
118 N. Cherokee Lane
Lodi, CA 95240

Quality Inn
Patel Kishor
118 N. Cherokee Lane
Lodi, CA 95240

Ron Pitamber
Lodi El Rancho Motel
221 Harding Blvd.
Roseville, CA 95678

Ron Pitamber
Lodi El Rancho Motel
5151 Weston Way
Granite Bay, CA 95746-6990

Sunil & Shobhana Yadav
Modern Motor Lodge
1050 S. Cherokee Lane
Lodi, CA 95240

Surendra F. Patel
Wine Country Inn
607 S. Cherokee Lane
Lodi, CA 95240

Hasmukh M. Bhakta
Rancho Grande Motel
807 S. Cherokee Lane
Lodi, CA 95240

Ghanshyam A. Patel
Traveler's Hotel
112 N. School Street
Lodi, CA 95240

Ghanshyam A. Patel
Traveler's Hotel
112 N. School Street #8
Lodi, CA 95240

Rakesh & Smita Patel
Viking Motel
815 S. Cherokee Lane
Lodi, CA 95240

Chetan Patel
Royal Host Inn
710 S. Cherokee Lane
Lodi, CA 95240

Maurice O. Ray
Imperial Hotel
9 W. Oak Street
Lodi, CA 95240

Maurice O. Ray
Imperial Hotel
7 W. Oak Street
Lodi, CA 95240

EXHIBIT B

Jayanti Bhakta
Economy Inn
1100 S. Cherokee Lane
Lodi, CA 95240

Gunvant M. Bhakta
Main Hotel
4 S. Main Street
Lodi, CA 95240

Oasis International Trading
Oasis Motel
736 S. Cherokee Lane B
Lodi, CA 95240

Hampton Inn & Suites
Geweke VII, LP
P.O. **Box** 1420
Lodi. CA 95241

Hampton Inn & Suites
Geweke VII, LP
P.O. Box 1210
Lodi, CA 95241

Microtel Inn
6428 W. Banner Street
Lodi, CA 95242

R X 5 HOSP/DBA Best Western
6411 W. Banner Street
Lodi, CA 95242